

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

HANY F. KOULTA, Personal Representative  
of the Estate of Sami F. Koulta,

CIVIL CASE NO. 04-40343

Plaintiff,  
v.

HONORABLE PAUL V. GADOLA  
U.S. DISTRICT JUDGE

CITY OF CENTERLINE, OFFICER DANIEL  
MERCIEZ, OFFICER ROBERT  
WROBLEWSKI, and OFFICER STEVEN  
HILLA,

Defendants.  
\_\_\_\_\_  
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**ORDER ACCEPTING REPORT AND RECOMMENDATION**

This is a civil rights action under 42 U.S.C. §§ 1983 and 1988 in which Plaintiff has named the City of Centerline, Officer Merciez, Officer Wroblewski, and Officer Hilla as Defendants. Before the Court is the Defendant Officers' motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), or for summary judgment pursuant to Fed. R. Civ. P. 56, filed on June 20, 2005 and the Report and Recommendation of Magistrate Judge R. Steven Whalen filed on February 16, 2006. After realizing that he did not address Defendants' motion fully, the Magistrate Judge issued a Supplemental Report and Recommendation on February 28, 2006. Combined, the Magistrate Judge recommends that Defendants' motion be granted with respect to Plaintiff's equal protection claim and denied in all other respects. Defendants filed objections to the report and recommendation on February 27, 2006, Plaintiff responded on March 8, 2006, and Defendants replied on March 13, 2006.

The Court's standard of review for a Magistrate Judge's Report and Recommendation

depends upon whether a party files objections. If a party does not object to the Report and Recommendation, the Court does not need to conduct a review by any standard. *See Lardie v. Birkett*, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (Gadola, J.). If a party objects to portions of the Report and Recommendation, the Court reviews those portions de novo. *Lardie*, 221 F. Supp. 2d at 807. The Federal Rules of Civil Procedure dictate this standard of review in Rule 72(b), which states, in relevant part, that

[t]he district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

Fed. R. Civ. P. 72(b). Here, because Plaintiff filed objections, this Court reviews de novo those portions to which an objection has been made. *See Lardie*, 221 F. Supp. 2d at 807.

De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge; the Court may not act solely on the basis of a Magistrate Judge's Report and Recommendation. *See* 12 Wright, Miller & Marcus, Federal Practice and Procedure: Civil 2d § 3070.2 (1997); *see also Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court may supplement the record by entertaining additional evidence, but is not required to do so. 12 Wright, Federal Practice § 3070.2. After reviewing the evidence, the Court is free to accept, reject, or modify the findings or recommendations of the Magistrate Judge. *See Lardie*, 221 F. Supp. 2d at 807. If the Court accepts a Report and Recommendation, the Court is not required to state with specificity what it reviewed; it is sufficient for the Court to state that it engaged in a de novo review of the record and adopts the Report and Recommendation. *See id.*; 12 Wright, Federal Practice § 3070.2.

The Court has reviewed the Report and Recommendation, the Supplemental Report and Recommendation, Defendants' objections, Plaintiff's response and Defendants' reply, along with the underlying evidence and filings in the record. Having conducted this review under the de novo standard as detailed above, the Court concludes that the Magistrate Judge's reasoning and conclusions are sound.

**ACCORDINGLY, IT IS HEREBY ORDERED** that Defendants' objections [docket entry 49] are **OVERRULED**, and the Report and Recommendation [docket entry 47] and the Supplemental Report and Recommendation [docket entry 50] are **ACCEPTED** and **ADOPTED** as the opinion of this Court.

**IT IS FURTHER ORDERED** that the Defendant Officers' motion [docket entry 14] is **GRANTED** with respect to Plaintiff's equal protection claim and **DENIED** in all other respects, and Plaintiff's equal protection claim against the Defendant Officers is **DISMISSED**.

**SO ORDERED.**

Dated: March 31, 2006

s/Paul V. Gadola

HONORABLE PAUL V. GADOLA  
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on April 3, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Iris E. Rubin; James E. Tamm; Michael M. Wachsberg, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: \_\_\_\_\_.

s/Ruth A. Brissaud

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